

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

ROBERT L. YARBROUGH, #R7989

PETITIONER

VERSUS

CIVIL ACTION NO. 4:06cv121DPJ-JCS

CHRISTOPHER EPPS, Commissioner of MDOC

RESPONDENT

ORDER

This matter is before the Court on petitioner Yarbrough's request for habeas corpus relief pursuant to 28 U.S.C. § 2254. On December 7, 2006, this Court entered a Final Judgment which dismissed this cause for petitioner's failure to exhaust his available state remedies. On December 26, 2006, the petitioner filed a motion to reconsider [doc.15], requesting that this Court reconsider the Final Judgment and re-open this case. Along with this motion, the petitioner submitted a copy of an order entered on December 6, 2006, by the Mississippi Supreme Court, denying his application for leave to file a post-conviction relief motion. *Cause number* 2006-M-01815. Since the petitioner is a prisoner proceeding *pro se* and the Court is required to liberally construe his pleadings, his request will be granted. It is, hereby,

ORDERED that petitioner's motion to reconsider [doc.15] is granted to the extent that the Clerk of Court is directed to re-open this case. This order does not enter a ruling regarding the exhaustion of the petitioner's state court remedies.

IT IS FURTHER ORDERED that petitioner's motion to proceed *in forma pauperis* [doc. 14] is denied as moot. The petitioner has already been granted pauper status in this

case.

IT IS FURTHER ORDERED that petitioner's motion for an evidentiary hearing [doc. 13] is denied as premature. The Court will decide if a hearing is necessary once a response has been filed.

IT IS FURTHER ORDERED that the respondent, through Jim Hood, file an answer or other responsive pleading in this cause within twenty (20) days of the service upon the said Jim Hood of a copy of this order. Respondent shall file with his answer or other responsive pleading full and complete transcripts of all proceedings in the state court of Mississippi arising from the charges of sale of cocaine against petitioner in the Circuit Court of Neshoba County, Mississippi.

IT IS FURTHER ORDERED that the Clerk of Court shall serve, by certified mail, a copy of the petition filed herein and of this order upon Jim Hood, Attorney General of the State of Mississippi. The Clerk of Court shall also serve a copy of this order upon petitioner by mailing same to petitioner's last known address.

SO ORDERED AND ADJUDGED this the 16th day of January, 2007.

s/ Daniel P. Jordan III

UNITED STATES DISTRICT JUDGE